

FIRST REGULAR SESSION

HOUSE BILL NO. 1199

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MESSENGER.

2306H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 32.115, 100.850, 135.352, 253.550, and 620.1881, RSMo, and to enact in lieu thereof five new sections relating to tax credits.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 32.115, 100.850, 135.352, 253.550, and 620.1881, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 32.115, 100.850, 135.352, 253.550, and 620.1881, to read as follows:

32.115. 1. The department of revenue shall grant a tax credit, to be applied in the following order until used, against:

(1) The annual tax on gross premium receipts of insurance companies in chapter 148;

(2) The tax on banks determined pursuant to subdivision (2) of subsection 2 of section 148.030;

(3) The tax on banks determined in subdivision (1) of subsection 2 of section 148.030;

(4) The tax on other financial institutions in chapter 148;

(5) The corporation franchise tax in chapter 147;

(6) The state income tax in chapter 143; and

(7) The annual tax on gross receipts of express companies in chapter 153.

2. For proposals approved pursuant to section 32.110:

(1) The amount of the tax credit shall not exceed fifty percent of the total amount contributed during the taxable year by the business firm or, in the case of a financial institution, where applicable, during the relevant income period in programs approved pursuant to section 32.110;

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 (2) Except as provided in subsection 2 or 5 of this section, a tax credit of up to seventy
17 percent may be allowed for contributions to programs where activities fall within the scope of
18 special program priorities as defined with the approval of the governor in regulations
19 promulgated by the director of the department of economic development;

20 (3) Except as provided in subsection 2 or 5 of this section, the tax credit allowed for
21 contributions to programs located in any community shall be equal to seventy percent of the total
22 amount contributed where such community is a city, town or village which has fifteen thousand
23 or less inhabitants as of the last decennial census and is located in a county which is either
24 located in:

25 (a) An area that is not part of a standard metropolitan statistical area;

26 (b) A standard metropolitan statistical area but such county has only one city, town or
27 village which has more than fifteen thousand inhabitants; or

28 (c) A standard metropolitan statistical area and a substantial number of persons in such
29 county derive their income from agriculture.

30

31 Such community may also be in an unincorporated area in such county as provided in
32 subdivision (1), (2) or (3) of this subsection. Except in no case shall the total economic benefit
33 of the combined federal and state tax savings to the taxpayer exceed the amount contributed by
34 the taxpayer during the tax year;

35 (4) Such tax credit allocation, equal to seventy percent of the total amount contributed,
36 shall not exceed four million dollars in fiscal year 1999 and six million dollars in fiscal year 2000
37 and any subsequent fiscal year. When the maximum dollar limit on the seventy percent tax credit
38 allocation is committed, the tax credit allocation for such programs shall then be equal to fifty
39 percent credit of the total amount contributed. Regulations establishing special program
40 priorities are to be promulgated during the first month of each fiscal year and at such times
41 during the year as the public interest dictates. Such credit shall not exceed two hundred and fifty
42 thousand dollars annually except as provided in subdivision (5) of this subsection. No tax credit
43 shall be approved for any bank, bank and trust company, insurance company, trust company,
44 national bank, savings association, or building and loan association for activities that are a part
45 of its normal course of business. Any tax credit not used in the period the contribution was made
46 may be carried over the next five succeeding calendar or fiscal years until the full credit has been
47 claimed. Except as otherwise provided for proposals approved pursuant to section 32.111,
48 32.112 or 32.117, in no event shall the total amount of all other tax credits allowed pursuant to
49 sections 32.100 to 32.125 exceed thirty-two million dollars in any one fiscal year, of which six
50 million shall be credits allowed pursuant to section 135.460. If six million dollars in credits are

51 not approved, then the remaining credits may be used for programs approved pursuant to sections
52 32.100 to 32.125;

53 (5) The credit may exceed two hundred fifty thousand dollars annually and shall not be
54 limited if community services, crime prevention, education, job training, physical revitalization
55 or economic development, as defined by section 32.105, is rendered in an area defined by federal
56 or state law as an impoverished, economically distressed, or blighted area or as a neighborhood
57 experiencing problems endangering its existence as a viable and stable neighborhood, or if the
58 community services, crime prevention, education, job training, physical revitalization or
59 economic development is limited to impoverished persons.

60 3. For proposals approved pursuant to section 32.111:

61 (1) The amount of the tax credit shall not exceed fifty-five percent of the total amount
62 invested in affordable housing assistance activities or market rate housing in distressed
63 communities as defined in section 135.530 by a business firm. Whenever such investment is
64 made in the form of an equity investment or a loan, as opposed to a donation alone, tax credits
65 may be claimed only where the loan or equity investment is accompanied by a donation which
66 is eligible for federal income tax charitable deduction, and where the total value of the tax credits
67 herein plus the value of the federal income tax charitable deduction is less than or equal to the
68 value of the donation. Any tax credit not used in the period for which the credit was approved
69 may be carried over the next ten succeeding calendar or fiscal years until the full credit has been
70 allowed. If the affordable housing units or market rate housing units in distressed communities
71 for which a tax is claimed are within a larger structure, parts of which are not the subject of a tax
72 credit claim, then expenditures applicable to the entire structure shall be reduced on a prorated
73 basis in proportion to the ratio of the number of square feet devoted to the affordable housing
74 units or market rate housing units in distressed communities, for purposes of determining the
75 amount of the tax credit. The total amount of tax credit granted for programs approved pursuant
76 to section 32.111 for the fiscal year beginning July 1, 1991, shall not exceed two million dollars,
77 to be increased by no more than two million dollars each succeeding fiscal year, until the total
78 tax credits that may be approved reaches ten million dollars in any fiscal year;

79 (2) For any year during the compliance period indicated in the land use restriction
80 agreement, the owner of the affordable housing rental units for which a credit is being claimed
81 shall certify to the commission that all tenants renting claimed units are income eligible for
82 affordable housing units and that the rentals for each claimed unit are in compliance with the
83 provisions of sections 32.100 to 32.125. The commission is authorized, in its discretion, to audit
84 the records and accounts of the owner to verify such certification;

85 (3) In the case of owner-occupied affordable housing units, the qualifying owner
86 occupant shall, before the end of the first year in which credits are claimed, certify to the

87 commission that the occupant is income eligible during the preceding two years, and at the time
88 of the initial purchase contract, but not thereafter. The qualifying owner occupant shall further
89 certify to the commission, before the end of the first year in which credits are claimed, that
90 during the compliance period indicated in the land use restriction agreement, the cost of the
91 affordable housing unit to the occupant for the claimed unit can reasonably be projected to be
92 in compliance with the provisions of sections 32.100 to 32.125. Any succeeding owner occupant
93 acquiring the affordable housing unit during the compliance period indicated in the land use
94 restriction agreement shall make the same certification;

95 (4) If at any time during the compliance period the commission determines a project for
96 which a proposal has been approved is not in compliance with the applicable provisions of
97 sections 32.100 to 32.125 or rules promulgated therefor, the commission may within one
98 hundred fifty days of notice to the owner either seek injunctive enforcement action against the
99 owner, or seek legal damages against the owner representing the value of the tax credits, or
100 foreclose on the lien in the land use restriction agreement, selling the project at a public sale, and
101 paying to the owner the proceeds of the sale, less the costs of the sale and less the value of all tax
102 credits allowed herein. The commission shall remit to the director of revenue the portion of the
103 legal damages collected or the sale proceeds representing the value of the tax credits. However,
104 except in the event of intentional fraud by the taxpayer, the proposal's certificate of eligibility for
105 tax credits shall not be revoked.

106 4. For proposals approved pursuant to section 32.112, the amount of the tax credit shall
107 not exceed fifty-five percent of the total amount contributed to a neighborhood organization by
108 business firms. Any tax credit not used in the period for which the credit was approved may be
109 carried over the next ten succeeding calendar or fiscal years until the full credit has been allowed.
110 The total amount of tax credit granted for programs approved pursuant to section 32.112 shall
111 not exceed one million dollars for each fiscal year.

112 5. The total amount of tax credits used for market rate housing in distressed communities
113 pursuant to sections 32.100 to 32.125 shall not exceed thirty percent of the total amount of all
114 tax credits authorized pursuant to sections 32.111 and 32.112.

115 **6. A tax credit issued under sections 32.100 to 32.125 shall not be transferred, sold,**
116 **or assigned.**

117 **7. A tax credit issued under sections 32.100 to 32.125 shall not be refundable.**

100.850. 1. The approved company shall remit to the board a job development
2 assessment fee, not to exceed five percent of the gross wages of each eligible employee whose
3 job was created as a result of the economic development project, or not to exceed ten percent if
4 the economic development project is located within a distressed community as defined in section
5 135.530, for the purpose of retiring bonds which fund the economic development project.

6 2. Any approved company remitting an assessment as provided in subsection 1 of this
7 section shall make its payroll books and records available to the board at such reasonable times
8 as the board shall request and shall file with the board documentation respecting the assessment
9 as the board may require.

10 3. Any assessment remitted pursuant to subsection 1 of this section shall cease on the
11 date the bonds are retired.

12 4. Any approved company which has paid an assessment for debt reduction shall be
13 allowed a tax credit equal to the amount of the assessment. The tax credit may be claimed
14 against taxes otherwise imposed by chapters 143 and 148, except withholding taxes imposed
15 under the provisions of sections 143.191 to 143.265, which were incurred during the tax period
16 in which the assessment was made. **The tax credit authorized under this section shall not be**
17 **transferred, sold, or assigned.**

18 5. In no event shall the aggregate amount of tax credits authorized by subsection 4 of this
19 section exceed twenty-five million dollars annually. Of such amount, nine hundred fifty
20 thousand dollars shall be reserved for an approved project for a world headquarters of a business
21 whose primary function is tax return preparation that is located in any home rule city with more
22 than four hundred thousand inhabitants and located in more than one county, which amount
23 reserved shall end in the year of the final maturity of the certificates issued for such approved
24 project.

25 6. ~~[The director of revenue shall issue a refund to the approved company]~~ To the extent
26 that the amount of credits allowed in subsection 4 of this section exceeds the amount of the
27 approved company's income tax, **such amount shall not be redeemable or issued as a tax**
28 **credit, refundable or otherwise.**

135.352. 1. A taxpayer owning an interest in a qualified Missouri project shall, subject
2 to the limitations provided under the provisions of ~~[subsection]~~ **subsections 3 and 8** of this
3 section, be allowed a state tax credit, whether or not allowed a federal tax credit, to be termed
4 the Missouri low-income housing tax credit, if the commission issues an eligibility statement for
5 that project.

6 2. For qualified Missouri projects placed in service after January 1, 1997, the Missouri
7 low-income housing tax credit available to a project shall be such amount as the commission
8 shall determine is necessary to ensure the feasibility of the project, up to an amount equal to the
9 federal low-income housing tax credit for a qualified Missouri project, for a federal tax period,
10 and such amount shall be subtracted from the amount of state tax otherwise due for the same tax
11 period.

12 3. No more than six million dollars in tax credits shall be authorized each fiscal year for
13 projects financed through tax-exempt bond issuance.

14 4. The Missouri low-income housing tax credit shall be taken against the taxes and in
15 the order specified pursuant to section 32.115. The credit authorized by this section shall not be
16 refundable. Any amount of credit that exceeds the tax due for a taxpayer's taxable year may be
17 carried back to any of the taxpayer's three prior taxable years or carried forward to any of the
18 taxpayer's five subsequent taxable years.

19 5. All or any portion of Missouri tax credits issued in accordance with the provisions of
20 sections 135.350 to 135.362 may be allocated to parties who are eligible pursuant to the
21 provisions of subsection 1 of this section. Beginning January 1, 1995, for qualified projects
22 which began on or after January 1, 1994, an owner of a qualified Missouri project shall certify
23 to the director the amount of credit allocated to each taxpayer. The owner of the project shall
24 provide to the director appropriate information so that the low-income housing tax credit can be
25 properly allocated.

26 6. In the event that recapture of Missouri low-income housing tax credits is required
27 pursuant to subsection 2 of section 135.355, any statement submitted to the director as provided
28 in this section shall include the proportion of the state credit required to be recaptured, the
29 identity of each taxpayer subject to the recapture and the amount of credit previously allocated
30 to such taxpayer.

31 7. The director of the department may promulgate rules and regulations necessary to
32 administer the provisions of this section. No rule or portion of a rule promulgated pursuant to
33 the authority of this section shall become effective unless it has been promulgated pursuant to
34 the provisions of section 536.024.

35 **8. The tax credit authorized under this section shall not be transferred, sold, or**
36 **assigned.**

253.550. 1. Any taxpayer incurring costs and expenses for the rehabilitation of eligible
2 property, which is a certified historic structure or structure in a certified historic district, may,
3 subject to the provisions of this section and section 253.559, receive a credit against the taxes
4 imposed pursuant to chapters 143 and 148, except for sections 143.191 to 143.265, on such
5 taxpayer in an amount equal to twenty-five percent of the total costs and expenses of
6 rehabilitation incurred after January 1, 1998, which shall include, but not be limited to, qualified
7 rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code
8 of 1986, as amended, and the related regulations thereunder, provided the rehabilitation costs
9 associated with rehabilitation and the expenses exceed fifty percent of the total basis in the
10 property and the rehabilitation meets standards consistent with the standards of the Secretary of
11 the United States Department of the Interior for rehabilitation as determined by the state historic
12 preservation officer of the Missouri department of natural resources.

13 2. During the period beginning on January 1, 2010, but ending on ~~[or after]~~ June 30,
14 2010, the department of economic development shall not approve applications for tax credits
15 under the provisions of subsections 3 and 8 of section 253.559 which, in the aggregate, exceed
16 seventy million dollars, increased by any amount of tax credits for which approval shall be
17 rescinded under the provisions of section 253.559. For each fiscal year beginning on or after July
18 1, 2010, the department of economic development shall not approve applications for tax credits
19 under the provisions of subsections 3 and 8 of section 253.559 which, in the aggregate, exceed
20 one hundred forty million dollars, increased by any amount of tax credits for which approval
21 shall be rescinded under the provisions of section 253.559. The limitations provided under this
22 subsection shall not apply to applications approved under the provisions of subsection 3 of
23 section 253.559 for projects to receive less than two hundred seventy-five thousand dollars in
24 tax credits.

25 3. For all applications for tax credits approved on or after January 1, 2010, no more than
26 two hundred fifty thousand dollars in tax credits may be issued for eligible costs and expenses
27 incurred in the rehabilitation of an eligible property which is a nonincome producing
28 single-family, owner-occupied residential property and is either a certified historic structure or
29 a structure in a certified historic district.

30 4. The limitations on tax credit authorization provided under the provisions of
31 subsections 2 and 3 of this section shall not apply to:

32 (1) Any application submitted by a taxpayer, which has received approval from the
33 department prior to January 1, 2010; or

34 (2) Any taxpayer applying for tax credits, provided under this section, which, on or
35 before January 1, 2010, has filed an application with the department evidencing that such
36 taxpayer:

37 (a) Has incurred costs and expenses for an eligible property which exceed the lesser of
38 five percent of the total project costs or one million dollars and received an approved Part I from
39 the Secretary of the United States Department of Interior; or

40 (b) Has received certification, by the state historic preservation officer, that the
41 rehabilitation plan meets the standards consistent with the standards of the Secretary of the
42 United States Department of the Interior, and the rehabilitation costs and expenses associated
43 with such rehabilitation shall exceed fifty percent of the total basis in the property.

44 **5. The tax credit authorized under this section shall not be transferred, sold, or**
45 **assigned.**

46 **6. The tax credit authorized under this section shall not be refundable.**

620.1881. 1. The department of economic development shall respond within thirty days
2 to a company who provides a notice of intent with either an approval or a rejection of the notice

3 of intent. The department shall give preference to qualified companies and projects targeted at
4 an area of the state which has recently been classified as a disaster area by the federal
5 government. Failure to respond on behalf of the department of economic development shall
6 result in the notice of intent being deemed an approval for the purposes of this section. A
7 qualified company who is provided an approval for a project shall be allowed a benefit as
8 provided in this program in the amount and duration provided in this section. A qualified
9 company may receive additional periods for subsequent new jobs at the same facility after the
10 full initial period if the minimum thresholds are met as set forth in sections 620.1875 to
11 620.1890. There is no limit on the number of periods a qualified company may participate in the
12 program, as long as the minimum thresholds are achieved and the qualified company provides
13 the department with the required reporting and is in proper compliance for this program or other
14 state programs. A qualified company may elect to file a notice of intent to start a new project
15 period concurrent with an existing project period if the minimum thresholds are achieved and
16 the qualified company provides the department with the required reporting and is in proper
17 compliance for this program and other state programs; however, the qualified company may not
18 receive any further benefit under the original approval for jobs created after the date of the new
19 notice of intent, and any jobs created before the new notice of intent may not be included as new
20 jobs for the purpose of benefit calculation in relation to the new approval. When a qualified
21 company has filed and received approval of a notice of intent and subsequently files another
22 notice of intent, the department shall apply the definition of project facility under subdivision
23 (19) of section 620.1878 to the new notice of intent as well as all previously approved notices
24 of intent and shall determine the application of the definitions of new job, new payroll, project
25 facility base employment, and project facility base payroll accordingly.

26 2. Notwithstanding any provision of law to the contrary, any qualified company that is
27 awarded benefits under this program may not simultaneously receive tax credits or exemptions
28 under sections 135.100 to 135.150, sections 135.200 to 135.286, section 135.535, or sections
29 135.900 to 135.906 at the same project facility. The benefits available to the company under any
30 other state programs for which the company is eligible and which utilize withholding tax from
31 the new jobs of the company must first be credited to the other state program before the
32 withholding retention level applicable under the Missouri quality jobs act will begin to accrue.
33 These other state programs include, but are not limited to, the Missouri works jobs training
34 program under sections 620.800 to 620.809, the real property tax increment allocation
35 redevelopment act, sections 99.800 to 99.865, or the Missouri downtown and rural economic
36 stimulus act under sections 99.915 to 99.980. If any qualified company also participates in the
37 Missouri works jobs training program in sections 620.800 to 620.809, the company shall retain
38 no withholding tax, but the department shall issue a ~~[refundable]~~ **nonrefundable** tax credit for

39 the full amount of benefit allowed under this ~~[subdivision]~~ **subsection**. The calendar year annual
40 maximum amount of tax credits which may be issued to a qualifying company that also
41 participates in the new job training program shall be increased by an amount equivalent to the
42 withholding tax retained by that company under the new jobs training program. However, if the
43 combined benefits of the quality jobs program and the new jobs training program exceed the
44 projected state benefit of the project, as determined by the department of economic development
45 through a cost-benefit analysis, the increase in the maximum tax credits shall be limited to the
46 amount that would not cause the combined benefits to exceed the projected state benefit. Any
47 taxpayer who is awarded benefits under this program who knowingly hires individuals who are
48 not allowed to work legally in the United States shall immediately forfeit such benefits and shall
49 repay the state an amount equal to any state tax credits already redeemed and any withholding
50 taxes already retained.

51 3. The types of projects and the amount of benefits to be provided are:

52 (1) Small and expanding business projects: in exchange for the consideration provided
53 by the new tax revenues and other economic stimuli that will be generated by the new jobs
54 created by the program, a qualified company may retain an amount equal to the withholding tax
55 as calculated under subdivision (33) of section 620.1878 from the new jobs that would otherwise
56 be withheld and remitted by the qualified company under the provisions of sections 143.191 to
57 143.265 for a period of three years from the date the required number of new jobs were created
58 if the average wage of the new payroll equals or exceeds the county average wage or for a period
59 of five years from the date the required number of new jobs were created if the average wage of
60 the new payroll equals or exceeds one hundred twenty percent of the county average wage;

61 (2) Technology business projects: in exchange for the consideration provided by the new
62 tax revenues and other economic stimuli that will be generated by the new jobs created by the
63 program, a qualified company may retain an amount equal to a maximum of five percent of new
64 payroll for a period of five years from the date the required number of jobs were created from
65 the withholding tax of the new jobs that would otherwise be withheld and remitted by the
66 qualified company under the provisions of sections 143.191 to 143.265 if the average wage of
67 the new payroll equals or exceeds the county average wage. An additional one-half percent of
68 new payroll may be added to the five percent maximum if the average wage of the new payroll
69 in any year exceeds one hundred twenty percent of the county average wage in the county in
70 which the project facility is located, plus an additional one-half percent of new payroll may be
71 added if the average wage of the new payroll in any year exceeds one hundred forty percent of
72 the average wage in the county in which the project facility is located. ~~[The department shall~~
73 ~~issue a refundable tax credit]~~ For any difference between the amount of benefit allowed under
74 this subdivision and the amount of withholding tax retained by the company, in the event the

75 withholding tax is not sufficient to provide the entire amount of benefit due to the qualified
76 company under this subdivision, **such difference shall not be redeemable or issued as a tax**
77 **credit, refundable or otherwise;**

78 (3) High impact projects: in exchange for the consideration provided by the new tax
79 revenues and other economic stimuli that will be generated by the new jobs created by the
80 program, a qualified company may retain an amount from the withholding tax of the new jobs
81 that would otherwise be withheld and remitted by the qualified company under the provisions
82 of sections 143.191 to 143.265, equal to three percent of new payroll for a period of five years
83 from the date the required number of jobs were created if the average wage of the new payroll
84 equals or exceeds the county average wage of the county in which the project facility is located.
85 For high-impact projects in a facility located within two adjacent counties, the new payroll shall
86 equal or exceed the higher county average wage of the adjacent counties. The percentage of
87 payroll allowed under this subdivision shall be three and one-half percent of new payroll if the
88 average wage of the new payroll in any year exceeds one hundred twenty percent of the county
89 average wage in the county in which the project facility is located. The percentage of payroll
90 allowed under this subdivision shall be four percent of new payroll if the average wage of the
91 new payroll in any year exceeds one hundred forty percent of the county average wage in the
92 county in which the project facility is located. An additional one percent of new payroll may be
93 added to these percentages if local incentives equal between ten percent and twenty-four percent
94 of the new direct local revenue; an additional two percent of new payroll is added to these
95 percentages if the local incentives equal between twenty-five percent and forty-nine percent of
96 the new direct local revenue; or an additional three percent of payroll is added to these
97 percentages if the local incentives equal fifty percent or more of the new direct local revenue.
98 ~~[The department shall issue a refundable tax credit for]~~ Any difference between the amount of
99 benefit allowed under this subdivision and the amount of withholding tax retained by the
100 company, in the event the withholding tax is not sufficient to provide the entire amount of benefit
101 due to the qualified company under this subdivision, **shall not be redeemable or issued as a tax**
102 **credit, refundable or otherwise;**

103 (4) Job retention projects: A qualified company may receive a tax credit for the retention
104 of jobs in this state, provided the qualified company and the project meets all of the following
105 conditions:

106 (a) For each of the twenty-four months preceding the year in which application for the
107 program is made the qualified company must have maintained at least one thousand full-time
108 employees at the employer's site in the state at which the jobs are based, and the average wage
109 of such employees must meet or exceed the county average wage;

(b) The qualified company retained at the project facility the level of full-time employees that existed in the taxable year immediately preceding the year in which application for the program is made;

(c) The qualified company is considered to have a significant statewide effect on the economy, and has been determined to represent a substantial risk of relocation from the state by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development;

(d) The qualified company in the project facility will cause to be invested a minimum of seventy million dollars in new investment prior to the end of two years or will cause to be invested a minimum of thirty million dollars in new investment prior to the end of two years and maintain an annual payroll of at least seventy million dollars during each of the years for which a credit is claimed; and

(e) The local taxing entities shall provide local incentives of at least fifty percent of the new direct local revenues created by the project over a ten-year period.

The quality jobs advisory task force may recommend to the department of economic development that appropriate penalties be applied to the company for violating the agreement. The amount of the job retention credit granted may be equal to up to fifty percent of the amount of withholding tax generated by the full-time jobs at the project facility for a period of five years. The calendar year annual maximum amount of tax credit that may be issued to any qualified company for a job retention project or combination of job retention projects shall be seven hundred fifty thousand dollars per year, but the maximum amount may be increased up to one million dollars if such action is proposed by the department and approved by the quality jobs advisory task force established in section 620.1887; provided, however, until such time as the initial at-large members of the quality jobs advisory task force are appointed, this determination shall be made by the director of the department of economic development. In considering such a request, the task force shall rely on economic modeling and other information supplied by the department when requesting the increased limit on behalf of the job retention project. In no event shall the total amount of all tax credits issued for the entire job retention program under this subdivision exceed three million dollars annually. Notwithstanding the above, no tax credits shall be issued for job retention projects approved by the department after August 30, 2013;

(5) Small business job retention and flood survivor relief: a qualified company may receive a tax credit under sections 620.1875 to 620.1890 for the retention of jobs and flood survivor relief in this state for each job retained over a three-year period, provided that:

145 (a) The qualified company did not receive any state or federal benefits, incentives, or tax
146 relief or abatement in locating its facility in a flood plain;

147 (b) The qualified company and related companies have fewer than one hundred
148 employees at the time application for the program is made;

149 (c) The average wage of the qualified company's and related companies' employees must
150 meet or exceed the county average wage;

151 (d) All of the qualified company's and related companies' facilities are located in this
152 state;

153 (e) The facilities at the primary business site in this state have been directly damaged by
154 floodwater rising above the level of a five hundred year flood at least two years, but fewer than
155 eight years, prior to the time application is made;

156 (f) The qualified company made significant efforts to protect the facilities prior to any
157 impending danger from rising floodwaters;

158 (g) For each year it receives tax credits under sections 620.1875 to 620.1890, the
159 qualified company and related companies retained, at the company's facilities in this state, at
160 least the level of full-time, year-round employees that existed in the taxable year immediately
161 preceding the year in which application for the program is made; and

162 (h) In the years it receives tax credits under sections 620.1875 to 620.1890, the company
163 cumulatively invests at least two million dollars in capital improvements in facilities and
164 equipment located at such facilities that are not located within a five hundred year flood plain
165 as designated by the Federal Emergency Management Agency, and amended from time to time.
166 The amount of the small business job retention and flood survivor relief credit granted may be
167 equal to up to one hundred percent of the amount of withholding tax generated by the full-time
168 jobs at the project facility for a period of three years. The calendar year annual maximum
169 amount of tax credit that may be issued to any qualified company for a small business job
170 retention and survivor relief project shall be two hundred fifty thousand dollars per year, but the
171 maximum amount may be increased up to five hundred thousand dollars if such action is
172 proposed by the department and approved by the quality jobs advisory task force established in
173 section 620.1887. In considering such a request, the task force shall rely on economic modeling
174 and other information supplied by the department when requesting an increase in the limit on
175 behalf of the small business job retention and flood survivor relief project. In no event shall the
176 total amount of all tax credits issued for the entire small business job retention and flood survivor
177 relief program under this subdivision exceed five hundred thousand dollars annually.
178 Notwithstanding the provisions of this subdivision to the contrary, no tax credits shall be issued
179 for small business job retention and flood survivor relief projects approved by the department
180 after August 30, 2010.

181 4. The qualified company shall provide an annual report of the number of jobs and such
182 other information as may be required by the department to document the basis for the benefits
183 of this program. The department may withhold the approval of any benefits until it is satisfied
184 that proper documentation has been provided, and shall reduce the benefits to reflect any
185 reduction in full-time employees or new payroll. Upon approval by the department, the qualified
186 company may begin the retention of the withholding taxes when it reaches the minimum number
187 of new jobs and the average wage exceeds the county average wage. Tax credits, if any, may be
188 issued upon satisfaction by the department that the qualified company has exceeded the county
189 average wage and the minimum number of new jobs. In such annual report, if the average wage
190 is below the county average wage, the qualified company has not maintained the employee
191 insurance as required, or if the number of new jobs is below the minimum, the qualified
192 company shall not receive tax credits or retain the withholding tax for the balance of the benefit
193 period. In the case of a qualified company that initially filed a notice of intent and received an
194 approval from the department for high-impact benefits and the minimum number of new jobs
195 in an annual report is below the minimum for high-impact projects, the company shall not
196 receive tax credits for the balance of the benefit period but may continue to retain the
197 withholding taxes if it otherwise meets the requirements of a small and expanding business under
198 this program.

199 5. The maximum calendar year annual tax credits issued for the entire program shall not
200 exceed eighty million dollars. Notwithstanding any provision of law to the contrary, the
201 maximum annual tax credits authorized under section 135.535 are hereby reduced from ten
202 million dollars to eight million dollars, with the balance of two million dollars transferred to this
203 program. There shall be no limit on the amount of withholding taxes that may be retained by
204 approved companies under this program.

205 6. The department shall allocate the annual tax credits based on the date of the approval,
206 reserving such tax credits based on the department's best estimate of new jobs and new payroll
207 of the project, and the other factors in the determination of benefits of this program. However,
208 the annual issuance of tax credits is subject to the annual verification of the actual new payroll.
209 The allocation of tax credits for the period assigned to a project shall expire if, within two years
210 from the date of commencement of operations, or approval if applicable, the minimum
211 thresholds have not been achieved. The qualified company may retain authorized amounts from
212 the withholding tax under this section once the minimum new jobs thresholds are met for the
213 duration of the project period. No benefits shall be provided under this program until the
214 qualified company meets the minimum new jobs thresholds. In the event the qualified company
215 does not meet the minimum new job threshold, the qualified company may submit a new notice

216 of intent or the department may provide a new approval for a new project of the qualified
217 company at the project facility or other facilities.

218 7. For a qualified company with flow-through tax treatment to its members, partners, or
219 shareholders, the tax credit shall be allowed to members, partners, or shareholders in proportion
220 to their share of ownership on the last day of the qualified company's tax period.

221 8. Tax credits may be claimed against taxes otherwise imposed by chapters 143 and 148,
222 and may not be carried forward but shall be claimed within one year of the close of the taxable
223 year for which they were issued, except as provided under subdivision (4) of subsection 3 of this
224 section.

225 9. Tax credits authorized by this section ~~[may]~~ **shall not** be transferred, sold, or assigned
226 ~~[by filing a notarized endorsement thereof with the department that names the transferee, the~~
227 ~~amount of tax credit transferred, and the value received for the credit, as well as any other~~
228 ~~information reasonably requested by the department].~~

229 10. Prior to the issuance of tax credits, the department shall verify through the
230 department of revenue, or any other state department, that the tax credit applicant does not owe
231 any delinquent income, sales, or use tax or interest or penalties on such taxes, or any delinquent
232 fees or assessments levied by any state department and through the department of insurance,
233 financial institutions and professional registration that the applicant does not owe any delinquent
234 insurance taxes. Such delinquency shall not affect the authorization of the application for such
235 tax credits, except that at issuance credits shall be first applied to the delinquency and any
236 amount issued shall be reduced by the applicant's tax delinquency. If the department of revenue
237 or the department of insurance, financial institutions and professional registration, or any other
238 state department, concludes that a taxpayer is delinquent after June fifteenth but before July first
239 of any year and the application of tax credits to such delinquency causes a tax deficiency on
240 behalf of the taxpayer to arise, then the taxpayer shall be granted thirty days to satisfy the
241 deficiency in which interest, penalties, and additions to tax shall be tolled. After applying all
242 available credits toward a tax delinquency, the administering agency shall notify the appropriate
243 department and that department shall update the amount of outstanding delinquent tax owed by
244 the applicant. If any credits remain after satisfying all insurance, income, sales, and use tax
245 delinquencies, the remaining credits shall be issued to the applicant, subject to the restrictions
246 of other provisions of law.

247 11. ~~[Except as provided under subdivision (4) of subsection 3 of this section, The~~
248 ~~director of revenue shall issue a refund to the qualified company]~~ To the extent that the amount
249 of credits allowed in this section exceeds the amount of the qualified company's income tax,
250 **such difference shall not be redeemable or issued as a tax credit, refundable or otherwise.**

251 12. An employee of a qualified company will receive full credit for the amount of tax
252 withheld as provided in section 143.211.

253 13. If any provision of sections 620.1875 to 620.1890 or application thereof to any
254 person or circumstance is held invalid, the invalidity shall not affect other provisions or
255 application of these sections which can be given effect without the invalid provisions or
256 application, and to this end, the provisions of sections 620.1875 to 620.1890 are hereby declared
257 severable.

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